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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
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11 MARK HARRIS,
12 Plaintiff,
13 vs.

14 UNITED PARCEL SERVICE, INC., an
Ohio Corporation; TONY AGENJO;
15 KIMBERLY MUNIZ; and DOES 1
through ONE HUNDRED, inclusive,
16 Defendants.

CASE NO. C-08-01810 JSW

**NOTICE OF MOTION AND MOTION TO
REMOVE INCORRECTLY FILED
DOCUMENTS**

Dept: Courtroom 2, 17th Floor
Judge: Honorable Jeffrey S. White

1 TO PLAINTIFF AND HIS COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on May 16, 2008, or as soon thereafter as the
3 matter may be heard, before the Honorable Jeffrey S. White in Courtroom 2, 17th Floor, of the
4 United States District Court for the Northern District of California, located at 450 Golden Gate
5 Avenue, San Francisco, CA 94102, Defendants United Parcel Service, Inc., Tony Agenjo, and
6 Kimberly Muniz will move to remove incorrectly filed documents. The Court should remove the
7 incorrectly filed documents because the documents should have been filed in the action entitled
8 *Mark Harris v. United Parcel Service, Inc., et al.*, Case No. 08-0315 MMC ("*Harris I*"), before
9 Judge Maxine M. Chesney. Defendants will re-file the documents in *Harris I* today.

10 Defendants base this motion on the instant Notice of Motion, Motion, and the
11 record in this case.

12
13 DATED: April 9, 2008

PAUL, HASTINGS, JANOFSKY & WALKER LLP

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15 By: /s/ Kerri N. Harper

KERRI N. HARPER

16 Attorneys for Defendants
17 UNITED PARCEL SERVICE, INC., TONY AGENJO,
18 and KIMBERLY MUNIZ
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**MEMORANDUM IN SUPPORT OF MOTION TO
REMOVE INCORRECTLY FILED DOCUMENTS**

Defendants United Parcel Service, Inc., Tony Agenjo, and Kimberly Muniz (collectively "Defendants") respectfully request that the Court remove from the file in this case: Docket No. 11— Administrative Motion Opposing Designation of *Harris I* (Case No. C-08-0315 MMC) and *Harris II* (Case No. C-08-1810 JSW) As Related (Chu, A.) (Filed on 4/8/2008); Docket No. 12—Stipulation That Cases Are Not Related, Pursuant to Northern District of California Civil Local Rule 3-12 (Chu, A.) (Filed on 4/8/2008); and Docket No. 13—[Proposed] Order Designating Cases As Unrelated and Granting Administrative Motion Opposing Designation of *Harris I* (Case No. C-08-0315 MMC) and *Harris II* (Case No. C-08-1810 JSW) As Related (Chu, A.) (Filed on 4/8/2008).

Defendants filed the Administrative Motion and supporting documents they seek to have removed from the docket in response to the Court's April 7, 2008 *Sua Sponte* Judicial Referral for Purposes of Determining Relationship of Cases. These documents set forth Defendants' position that *Harris I* (Case No. 08-0315 MMC) and *Harris II* (Case No. C-08-1810 JSW) are not related. Plaintiff has so stipulated.

The Administrative Motion and supporting documents should have been filed in *Harris I* instead of *Harris II*. Defendants will re-file the Administrative Motion and supporting documents in *Harris I* today, April 9, 2008, and ask that they be removed from the docket in *Harris II*.

Defendants respectfully request that the Court find a hearing is not required and grant this motion based on this Notice of Motion, Motion, and the record in this case.

DATED: April 9, 2008

PAUL, HASTINGS, JANOFKY & WALKER LLP

By: /s/ Kerri N. Harper

KERRI N. HARPER

Attorneys for Defendants
UNITED PARCEL SERVICE, INC., TONY AGENJO,
and KIMBERLY MUNIZ